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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,539	02/06/2004	Jason Tatge	Z2285-5-9	6495
28221	7590	08/14/2006	EXAMINER DUNHAM, JASON B	
DOCKET ADMINISTRATOR LOWENSTEIN SANDLER PC 65 LIVINGSTON AVENUE ROSELAND, NJ 07068			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/773,539	Applicant(s) TATGE ET AL.	
	Examiner Jason B. Dunham	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by

Dines (U.S. Patent Application Publication No. 2002/0052795).

Referring to claim 1. Dines discloses a computer implemented method for offering an average pricing contract for a commodity, comprising the steps of:

- Specifying a commodity (Dines: abstract);
- Specifying a quantity of the commodity (Dines: abstract);
- Specifying pricing points for pricing the commodity (Dines: paragraph 20); and
- Offering to sell the quantity of the commodity at a price to be determined based on current cash market prices for the commodity at the pricing points (Dines: paragraphs 17 and 20).

Referring to claim 2. Dines further discloses a method wherein the price is an average of the current cash market prices (Dines: paragraph 17).

Referring to claim 3. Dines further discloses a method wherein each of the current cash market prices for the commodity is determined by obtaining a futures

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prices for the commodity (Dines: paragraph 18); and adjusting the obtained futures price by a specified basis value (Dines: paragraph 18).

Referring to claim 4. Dines further discloses a method wherein specifying the pricing points includes specifying a pricing period (Dines: paragraph 17).

Referring to claim 5. Dines further discloses a method including specifying the pricing points for each of specified days of the week during a pricing period (Dines: paragraph 18).

Referring to claim 6. Dines further discloses a method wherein the pricing points occur at one of a specific time, an opening trade, and a closing trade (Dines: paragraph 18).

Referring to claim 7. Dines further discloses a method including the step of specifying a delivery period (Dines: figure 1 & paragraphs 37 and 59).

Referring to claim 8. Dines further discloses a method including the step of specifying a delivery location (Dines: paragraph 19).

Referring to claim 9. Dines further discloses a method wherein the offering step includes posting the offer via the Internet (Dines: paragraph 48).

Referring to claim 10. Dines further discloses a method including the step of forming a contract by accepting the offer (Dines: paragraphs 6 and 11).

Referring to claim 11. Dines further discloses a method including the step of displaying the progress of delivery of the commodity (Dines: paragraph 51).

Referring to claim 12. Dines further discloses a method including the step of displaying the progress of pricing of the commodity (Dines: abstract).

Referring to claim 13. Dines further discloses a method including the step of displaying final pricing information (Dines: paragraph 59).

Referring to claim 14. Dines further discloses a method including executing the contract at the final price (Dines: figure 1 & paragraphs 57 and 59).

Referring to claim 15. Dines further discloses a method including the step of automatically providing a hedging transaction for the buyer of the commodity (Dines: abstract & paragraphs 31 and 42).

Referring to claims 16-21. Claims 16-21 are rejected under the same rationale set forth above in the rejection of claims 1,3-4, and 6-8.

Referring to claim 22. Dines further discloses a system wherein the site is a Web site (Dines: paragraph 51).

Referring to claims 23-24. Claims 23-24 are rejected under the same rationale set forth above in the rejection of claims 15 and 1, respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M L A
Primary Exam-

JBD
Patent Examiner
8/10/06